

[REDACTED]

JUL 28 1981

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The evidence submitted discloses that you were incorporated [REDACTED] [REDACTED], under the Nonprofit laws of the State of [REDACTED]. Your purposes, as stated, are:

(1) "To provide management maintenance, preservation, control, rules and regulations, and to enforce all mutual, common or reciprocal interests and all restrictions upon all property which may [REDACTED] within [REDACTED] in addition to [REDACTED] [REDACTED] [REDACTED] (hereinafter called [REDACTED])."

(2) To act as agent of the owners of the lots in [REDACTED] [REDACTED] in the assessment, collection and disbursement of funds to be used for maintenance, repair, improvement and management of the common area, including, but not limited to the providing of maintenance, water, sewer, gas, electricity, garbage and trash collection, streets, insurance and other services required for the owners and the common area.

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
	[REDACTED]				
	[REDACTED]				

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides

"An organization is operated exclusively for the promotion of the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about betterment and social improvements."

While to determine, that this association is organized and operated to serve the common good and general welfare of the people of the community. There is no distinction between the developers and the association. The directors of the association are partners in the joint venture that is developing the subdivision. To qualify for exemption as a 501(c)(4) type of organization the association must be organized and operated by and for the residents of the community.

Revenue Ruling 74-99 states that, a homeowners association, to qualify for exemption under section 501(c)(4) of the code (1) Must serve a "community" which bears a reasonable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public. Your community is not identifiable as a governmental unit.

Your application indicates you perform the following activities:

1. Maintenance of the common areas and the improvements thereon.
2. Provide exterior maintenance on each lot as follows:
 - a. painting
 - b. repairing
 - c. replacing and caring for roofs, gutters, down spouts,
 - d. exterior building surfaces
 - e. other exterior improvements
 - f. purchase blanket or umbrella insurance policies, providing fire and extended coverage and liability insurance.
 - g. perform lawn care and improvements on residential property.
 - h. Common Facilities are reserved for the use of members and their guests.

Revenue Ruling 74-17 states that an organization formed by the unit owners of a condominium housing project to provide management, maintenance and care of the project, with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the

Revenue Ruling 69-280 states that a nonprofit organization formed to provide maintenance of exterior walls and roofs of its members' homes in a building was not exempt as a social welfare organization. These rulings describe organizations similar to your organization that were performing services that their members would otherwise have to provide for themselves.

On the basis of the information submitted, we conclude that you are not exempt from Federal income tax under Code section 501(c)(4). Therefore you are required to file Federal income tax returns on Form 1102.

Section 528 of the Internal Revenue Code provides that certain home owner Associations may elect to file Form 1120-H which, in effect, permits the exclusion of exempt function income from gross income. This election must be made timely and must be made each year. Enclosed is a Form 1120-H for your information.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,

District Director

Enclosure
Form 1120-H
Publication 892